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WATER RIGHTS  
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Re: Petition for Appointment of River Commissioner, Thistle Creek

Dear Bob:

This firm represents a large number of water users in the Birdseye/Indianola area on the Thistle Creek portion of the Spanish Fork River drainage. Attached to this letter is a list of these water users who have organized themselves as the Birdseye Landowners Association.

For a number of years the members of Birdseye Landowners Association have become increasingly concerned over water use and practices of certain water users in their area. Frankly, there has been little or no supervision of water usage and practices that are contrary to the Court Decrees and Utah water law. Informal efforts to have these concerns addressed have failed.

At a recent Change Application hearing, a number of these concerns were aired. For example, the Indianola Irrigation Company's president admitted that although shares of Indianola Irrigation Company stock have been moved by Change Application from surface stream diversions to wells, the Irrigation Company has not correspondingly reduced its stream diversions. Kent Jones and Jim Riley, who were conducting the hearing, were understandably surprised by this admission by the President of the Company. It was also brought to light that while the Company originally issued 1728 shares of Class A stock back in 1918, there is now, according to 1990 company records, 1889.5 shares of Class A Stock. No explanation for this discrepancy was given at the hearing.

While the water rights in this area are flow rights under the Smith Decree entered in 1894, recent actions on Change Application approvals have considered each share of Indianola Irrigation

Company stock as representing one acre-foot of water. I can find no basis for considering each share of stock to be equivalent to one acre-foot of water.

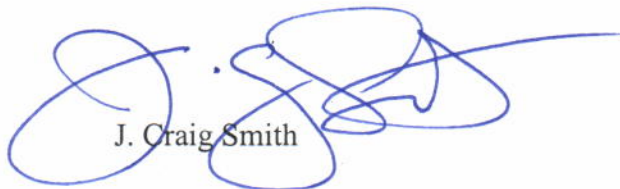
It was also shown that weirs, flumes, and other measuring devices of the Indianola Irrigation Company which are critical to determining the amount of water the irrigation company is actually diverting, are in a state of disrepair. Thus it is impossible to determine actual use of water by the Company.

Finally, there is a concern that water spreading is occurring. Lands that were previously not irrigated apparently have come under irrigation when part of the irrigation company went to sprinkler irrigation rather than flood irrigation.

For these and other equally valid reasons, a River Commissioner is desperately needed. It is my understanding that the authority of the current Spanish Fork River Commissioner, John Mendenhall does not extend into the Thistle Creek portion of the Spanish Fork River. We therefore respectfully petition that a River Commission for Thistle Creek and its tributaries be appointed and no applications by the Indianola Irrigation Company be acted upon in the Thistle Creek drainage until such time that the problems and concerns identified in this letter are fully addressed, and the duly appointed River Commissioner can attest to their correction.

We would like an opportunity to meet with you and discuss the appointment of a Commissioner and how the problems might be resolved. I will contact your office concerning an appointment. Thank you for your consideration of this matter.

Yours truly,



J. Craig Smith

cc: Kent Jones, P.E.  
cc: Jim Riley, P.E.  
cc: Lee Simm, P.E.  
cc: Mike Quealy, Esq.  
cc: John Mendenhall  
cc: Calvin Lasson